

REMARKS

In this Response, Applicants submit corrected drawings for Figs. 2-4, amend the specification, amend claim 1, and traverse the Examiner's rejections. Applicants amend claim 1 solely to expedite prosecution of the present application and do not acquiescence to any of the Examiner's rejections. Applicants' silence with regard to the Examiner's rejections of dependent claims constitutes a recognition by the Applicants that the rejections are moot based on the Amendment and Remarks relative to the independent claim from which the dependent claims depend. Applicants reserve the option to further prosecute the same or similar claims in the instant or a subsequent application. Claims 1-7 are pending in the present application.

Office Action ¶ 1

As provided in accompanying documents, Applicants amend the drawings for Figs. 2-4 to address the objections raised by the Draftsperson.

Applicants consider the corrected drawings to comply with 37 C.F.R. § 1.84.

Office Action ¶ 2

At the request of the Examiner, Applicants provide, in expanded spacing, Applicants' amendments to the specification that were previously presented in Applicants' November 7, 2003 Response.

Applicants consider the form and substance of these amendments to comply with all relevant statutory and regulatory provisions.

Office Action ¶ 3

At the request of the Examiner, Applicants represent claim 7 with the status identifier "previously presented."

Office Action ¶ 8

Applicants respectfully request that the Examiner reconsider his comments with respect to Applicants' prior Response, in that the prior art fails to teach or suggest computing an amount or a cost of an intermediate produced. In Applicants' November 11, 2003 Response, Applicants stated that "Applicants Admissions do not contain any teaching directed toward computing the amount of an intermediate produced or the cost of the intermediate produced." In the Office Action, the Examiner noted that "with respect to the underlined above, the Applicant is arguing unclaimed merits or distinctions." Applicants disagree. As understood by those of ordinary skill in the art, Applicants' claim term "clinker ... at the kiln output" inherently refers to an intermediate in a cement production process that produces cement as a product. While Applicants thus consider the intermediate nature of "clinker ... at the kiln output" to be apparent in the original claim language, Applicants amend independent claim 1 to explicitly include this inherent feature.

Applicants also respectfully request that the Examiner reconsider his comment that "no arguments were provided (see 37 C.F.R. 1.111) with respect to the Hansen et al. reference used in the 35 U.S.C. 103 rejections of claims 2-4 and the Taulbee reference used in the 35 U.S.C. 103 rejection of claim 6." Applicants direct the Examiner to page 11, paragraph 1 of Applicant's November 11, 2003 Response, in which Applicants stated, in pertinent part, that "silence with regard to any of the rejections of the dependent claims that depend from an independent claim considered by the Applicant to be allowable based on the Remarks provided herein ... should be construed as recognition by the Applicant that the previously lodged rejections are moot."

Office Action ¶¶ 4-8

The Examiner rejected independent claim 1 under 35 U.S.C. § 103(a) as being unpatentable over Applicants' Admissions in view of Beaverstock.

The Examiner also rejected dependent claims 2-7 under 35 U.S.C. § 103(a) as being unpatentable over one or more of Applicants' Admissions, Beaverstock, Hansen, and Taulbee.

Applicants' independent claim 1 is directed to a method of monitoring a cement production process having a kiln, in which *the cement production process produces cement as a*

product and clinker at the kiln output as an intermediate. Among other things, Applicants' independent claim 1 includes computing clinker production at the kiln output, computing the cost of clinker based on the computed clinker production, and displaying one or more of the clinker production and the cost of clinker as a function of time.

In contrast, Applicants' Admissions teach computing the amount of cement produced in a cement production process, but not the amount of intermediate clinker produced at a kiln output in the cement production process. Specifically, Applicants' Admissions on page 1 disclose "counting the amount of product produced" and "calculating a cost per unit product" for a process plant that produces that product, and Applicants' Admissions on pages 8 and 9 and in Fig. 1 disclose manufacturing and material flow in a cement production process. At most, therefore, Applicants' Admissions teach computing the amount of product produced and the cost of the amount of product produced for the cement production process of Fig. 1. Since cement is the product produced in a cement production process, Applicants' Admissions teach computing the amount of cement produced and the cost of the amount of cement produced. Applicants' Admissions do not, however, teach or suggest computing the amount of *intermediate* produced or computing the cost of the amount of the *intermediate* produced in a cement production process. As indicated in Applicants' independent claim 1, Applicants' claimed *clinker ... at the kiln output* is the intermediate in Applicants' claimed cement production process. As such, Applicants' Admissions do not teach or suggest the features of Applicants' claim 1 directed to computing clinker produced at a kiln output and computing the cost of the clinker produced at the kiln output for a cement production process.

Beaverstock also does not contain any teaching directed to computing clinker produced at a kiln output and the cost of clinker produced at the kiln output in a cement production process. As such, Beaverstock does not teach the features of Applicants' independent claim 1 directed to computing clinker produced at a kiln output or computing the cost of the clinker produced at the kiln output for a cement production process.

Applicants note that, regardless of whether one or more of the cited references may teach computing an intermediate produced and/or the cost of the intermediate produced in a process plant (and Applicants do not admit that any of the cited references so teaches), none of the cited references contains any teaching directed to either Applicants' claimed intermediate to be

monitored in a cement production process (i.e., clinker produced at a kiln output) or how to determine which intermediate to be monitored in a cement production process. As such, none of the cited references contains any teaching directed to the features of Applicants' claim 1 that include *computing clinker produced at a kiln output* or *computing the cost of the clinker produced at the kiln output* in a cement production process. Since none of the cited references teaches these features of Applicants' independent claim 1, none of the cited references can teach the feature of Applicants' independent claim 1 directed to *displaying one or more of the clinker produced and the cost of the clinker produced at a kiln output*. As such, none of the cited references teaches any of the features of Applicants' independent claim 1.

As the Examiner knows, the Examiner must show that all of the features of Applicants' claims are satisfied by the cited references to establish a prima facie cases of obviousness under 35 U.S.C. § 103(a). As provided herein, none of the cited references, whether considered separately or in combination, teaches all of the features of Applicants' independent claim 1. The Examiner thus fails to provide prima facie cases of obviousness for at least this reason. Applicants' failure to address the motivation and reasonable expectation of success elements of 35 U.S.C. § 103(a) should not be interpreted as an admission that such elements are satisfied, but rather as a recognition by the Applicants that such elements are moot given the Examiner's failure to provide a showing of all of the features of Applicants' independent claim 1.

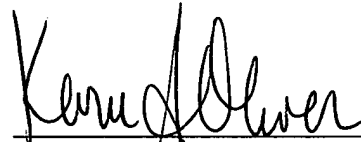
Accordingly, Applicants consider independent claim 1 to be allowable. Since claims 2-7 depend from independent claim 1, Applicants also consider claims 2-7 to be allowable based on their dependency from an allowable base claim.

Based on the foregoing Amendment and Remarks, Applicants traverse the Examiner's rejection of claims 1-7 under 35 U.S.C. § 103(a).

CONCLUSION

Applicants consider the Response herein to be fully responsive to the present Office Action. Based on the foregoing Amendment and Remarks, Applicants respectfully submit that this application is in condition for allowance. Accordingly, Applicants request allowance. Applicants invite the Examiner to contact the Applicants' undersigned Attorney if any issues are deemed to remain prior to allowance.

Respectfully submitted,
FOLEY HOAG LLP

A handwritten signature in black ink, appearing to read "Kevin A. Oliver", written over a horizontal line.

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